

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

David McGee,,  
Plaintiff,

v.

File No. 1:10-cv-11-jgm-jmc

Andrew Pallito, in his individual  
and official capacities, Robert Hofmann,  
Kurt Kuehl, Robert McDougall,  
Marie Salem, Robert Kupec,  
Kevin Oddy, Phil Fitzpatrick,  
Brian Reed, Cindy Modiano,  
Mary Ellen Cross, Richard Byrne,  
David Talcott, Greg Hale,  
Tim Harrington, Philip Brochu,  
Phillip Quijano, Joseph Sylvestri,  
Marshall Rich, David Martinson,  
Michael Bellizzi, Scott Morley,  
Anita Carbonell, Ellen McWard,  
Dominic Domato, Mark Potanas,  
Christina Granger, James Kamel,  
Joshua Rutherford, Michael Arace,  
James Edwards, Monique Sullivan,  
Correctional Officer Michael Simonds,  
Correctional Officer Douglas Camp,  
Delores Burroughs-Biron, M.D.,  
Nurse Manager Doe, Nurse(s) Doe,  
and Prison Health Services, Inc.,  
Defendants.

**ORDER**

The Magistrate Judge's Report and Recommendation was filed December 20, 2011. (Doc. 100.) After de novo review and over objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

Correctional Officer Michael Simonds' Motion to Dismiss for failure to serve (Doc. 94) is DENIED without prejudice.

This matter is returned to Magistrate Judge John M. Conroy for further proceedings.

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 5<sup>th</sup> day of April, 2012.

/s/ J. Garvan Murtha

Honorable J. Garvan Murtha  
United States District Judge